

63G-3-305. Agency review of rules -- Schedule of filings -- Limited exemption for certain rules.

(1) Each agency shall review each of its rules within five years after the rule's original effective date or within five years after the filing of the last five-year review, whichever is later.

(2) An agency may consider any substantial review of a rule to be a five-year review if the agency also meets the requirements described in Subsection (3).

(3) At the conclusion of its review, and no later than the deadline described in Subsection (1), the agency shall decide whether to continue, repeal, or amend and continue the rule and comply with Subsections (3)(a) through (c), as applicable.

(a) If the agency continues the rule, the agency shall file with the division a five-year notice of review and statement of continuation that includes:

(i) a concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule;

(ii) a summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule; and

(iii) a reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any.

(b) If the agency repeals the rule, the agency shall:

(i) comply with Section 63G-3-301; and

(ii) in the rule analysis described in Section 63G-3-301, state that the repeal is the result of the agency's five-year review under this section.

(c) If the agency amends and continues the rule, the agency shall comply with the requirements described in Section 63G-3-301 and file with the division the five-year notice of review and statement of continuation required in Subsection (3)(a).

(4) The division shall publish a five-year notice of review and statement of continuation in the bulletin no later than one year after the deadline described in Subsection (1).

(5) (a) The division shall make a reasonable effort to notify an agency that a rule is due for review at least 180 days before the deadline described in Subsection (1).

(b) The division's failure to comply with the requirement described in Subsection (5)(a) does not exempt an agency from complying with any provision of this section.

(6) If an agency finds that it will not meet the deadline established in Subsection (1):

(a) before the deadline described in Subsection (1), the agency may file one extension with the division indicating the reason for the extension; and

(b) the division shall publish notice of the extension in the bulletin in accordance with the division's publication schedule established by division rule under Section 63G-3-402.

(7) An extension permits the agency to comply with the requirements described in Subsections (1) and (3) up to 120 days after the deadline described in Subsection (1).

(8) (a) If an agency does not comply with the requirements described in Subsection (3), and does not file an extension under Subsection (6), the rule expires automatically on the day immediately after the date of the missed deadline.

(b) If an agency files an extension under Subsection (6) and does not comply with the requirements described in Subsection (3) within 120 days after the day on which the deadline described in Subsection (1) expires, the rule expires automatically on the day immediately after the date of the missed deadline.

(9) After a rule expires under Subsection (8), the division shall:

(a) publish a notice in the next issue of the bulletin that the rule has expired and is no longer enforceable;

(b) remove the rule from the code; and

(c) notify the agency that the rule has expired.

(10) After a rule expires, an agency must comply with the requirements of Section 63G-3-301 to reenact the rule.

Amended by Chapter 57, 2014 General Session